EXHIBIT C

General Services Administration
Federal Supply Service
Washington, DC 20406

SWJ

May 11, 1989

MEMORANDUM FOR DISTRIBUTION LIST - ALL FSS PROCURING ACTIVITIES (FCO DISTRIBUTION LIST)

FROM: NICHOLAS M. ECONOMOU, CPPO
DIRECTOR
OPERATIONS MANAGEMENT DIVISION (FCO)

SUBJECT: Procurement Information Bulletin 89-13

DOCUMENTING THE FACTS (Final article in the series of 4 - DSMD)

Once the contract specialist has completed the analysis of the DSMD, pricelist, and all other supporting materials, it becomes incumbent on him/her to develop several documents that are crucial to an MAS offer. These documents are the:

1) price/discount analysis,

2) prenegotiation memorandum, and,

3) price negotiation memorandum.

Our final PIB in this discussion on the DSMD will relate the relevance of this information in the preparation of the above documents. Very practical advice on the contents of these documents can be found in:

1) FAR 15.807 and FAR 15.808;

2) The 1982 Policy Statement on Multiple Award Schedules;

3) The Armed Services Pricing Manual, Chapter 18;

4) The Supply Operations Handbook, (FSS P 2901.2A) Chapter 38, pars. 93, 95, and 98;

5) Price Analysis Guides for Contracting Officers (Desk Reference developed by Office of Acquisition Policy)

DISCOUNT/PRICE ANALYSIS

The Price/Discount Analysis is the first major document that the contract specialist will write once he/she has completed an indepth examination of the offer. This document should provide a condensed summary of the discounts, concessions and other terms and conditions proposed to the Government. It should include a discussion on the discount arrangements available to commercial customers. The price/discount analysis should provide any reviewer, including an auditor, a general knowledge of the most important aspects of the offer. Information contained in the price/discount analysis is derived from the offer, pricelist/ catalog, copies of discount/pricing arrangements provided in support of offer, audits, previous contracts, and, notes and letters confirming information provided by vendor in response to inquiries by contract specialist. Basically, contract specialists should summarize the following information in the price/discount analysis:

1) Brief description of offeror, i.e., name, business size, marketing category, estimated value of offer, special item numbers included in offer;

2) Concise, but complete summary of discounts/concessions offered to the Government;

3) Concise, but complete summary of commercial discounts/ concessions;

4) Identification of the most favored customer (MFC), by special item number. This discussion should include an appropriate comparison of the MFC purchasing arrangement and commitments to Government's terms and conditions;

5) Comparison of proposed government discounts/concessions to current or previous contracts;

6) Comparison of commercial discounts/concessions to those disclosed in current or previous contracts;

7) Brief discussion on the pricelist/catalog (type of pricelist, approximate number and range of items included, percent of increases over current contract commercial pricelist, etc.);

8) Summary of any major omissions, discrepancies, and/or uncertainties in offer that were resolved during the analysis and confirmed by letter from the offeror, or reserved for discussion during the actual negotiation of the offer;

9) Discussion of any preaward or post award audit findings and recommendations;

10) Summary and brief analysis of any cost or pricing data submitted by offeror;

11) Brief statement on offeror's conformity with exemption from cost or pricing based on prices meeting commerciality test, and a statement that prices are considered fair and reasonable.

It should be noted that if an offer is returned, prior to opening of negotiations, for matters other than price/discount, i.e., nonresponsibility, large business offering on a set-aside item, etc., information supplied in the price/discount analysis should also substantiate why an offer will not be given further consideration. Such may be the case when the analysis of the pricelist and supporting data reveals that an offeror's price is not based on an established commercial pricelist, pursuant to the solicitation. Another instance might be where all of the items contained in an offer are identical, and the offeror's best and final is not the lowest of the identical offers competed, thus resulting in the offer being returned.

PRENEGOTIATION MEMORANDUM (PRENEG)

By the time the contract specialist completes the price/discount analysis, he/she should have a good perception of the government's offer, and its relative standing to the best commercial pricing terms/conditions. Unless a decision is made to return the offer at this point, the contract specialist can now establish the parameters upon which the offer will be negotiated. Information included in the PRENEG will generally come from the same sources, and refer back to the price/discount analysis. The PRENEG should clearly identify:

1) the commercial customer that the contract specialist will base his/her negotiation goals upon;

2) the highest and lowest discount arrangements to be sought by the contract specialist during negotiations;

3) rationale for arriving at proposed negotiation objectives;

4) unresolved questionable areas in the offer, including proposed discussion on unsettled issues raised in audits;

5) other negotiable factors such as warranty, installation, MOL, subcontracting plan, BPA, prompt payment and aggregate discounts, etc.;

6) name, title, signature of contract specialist's supervisor, the signature of the contract specialist, and other higher level managers if required.

PRICE NEGOTIATION MEMORANDUM (PNM)

Once the negotiations have been completed the contract specialist must then document the results thereof in the PNM. The PNM should provide a "blow-by-blow account" of what transpired during the actual negotiation of the offer. In addition, the PNM is the document which will basically relate the contract specialist's rationale for awards and no-awards. Unlike the price/discount analysis, and the PRENEG, the contents of the PNM will mainly be constructed from the contract specialist's notes and recollection of the negotiation sessions. SO TAKE GOOD NOTES. The PNM should address the following issues:

1) names and titles of persons present during negotiations;

2) recap by SIN of the negotiation objectives;

3) recap of any questions and/or areas of concern reserved for discussion during the negotiation;

4) concise discussion of offeror's response to negotiation objectives, including offeror's logic for agreement or disagreement with objectives. Alternatives and counter-proposals to the contract specialist's objectives should also be disclosed;

5) summary of explanations/clarifications provided by offeror on unresolved issues in offer;

6) complete explanation and rationale for contract specialist's acceptance of any discounts/terms/conditions that differ from those sought in the PRENEG;

7) justification for award and no award recommendations;

8) identification of customer or class of customer mutually agreed upon for proposed contract award;

9) name and signature of contract specialist and contracting officer.

As we wind up our series of PIB's on the DSMD, we think the following acrostic summarizes the critical points of the discussion:

D - DISCLOSURE - all MAS offers must divulge and produce supporting information to substantiate that complete, accurate, an current discount and pricing information has been provided to the contract specialist.

S - SCRUTINY - the contract specialist must study the offer, along with supporting information, pricelist, current/ previous contracts, and audits.

M - MUTUAL UNDERSTANDING - both the offeror and the contract specialist must understand the terms of the Government's solicitation, and the offeror's response thereto. The contract specialist must maintain an "I'm from Missouri, SHOW-ME" attitude if areas of the offer are unclear.

D - DOCUMENTATION - the contract specialist must provide sufficient details in writing on the particulars of the offer, and his/her analysis thereof, the Government's negotiation objectives, and the results thereof, and justification to support award recommendations.

General Services Administration
Federal Supply Service
Washington, DC 20406

April 18, 1989

MEMORANDUM FOR DISTRIBUTION LIST - ALL FSS PROCURING ACTIVITIES
(FCO DISTRIBUTION LIST)

FROM: NICHOLAS M. ECONOMOU, CPPO
DIRECTOR
OPERATIONS MANAGEMENT DIVISION (FCO)

SUBJECT: Procurement Information Bulletin 89-10

GETTING AT THE FACTS (Article 3 in a series of 4)

Our last PIB in this series examined the various sections of the DSMD, and provided some insight on the significance of the information requested on the evaluation process of multiple award schedule (MAS) contracting. This PIB will concentrate on evaluation and analysis of the data provided by vendors in response to the DSMD requirements.

It is important to keep in mind that a complete analysis and understanding of the vendor's sales and discount arrangements cannot be based solely on the information provided in the DSMD. Rather, the contract specialist must consider this data in light of information contained in:

1. the vendor's commercial catalog/price list,
2. any preaward or postaward audits on the vendor,
3. any special customer sales/discount agreements, and,
4. any previous GSA contracts.

Prior to evaluating/analyzing the DSMD the contract specialist should inspect the offer to ensure that all required documents and information are provided. This is generally referred to as an administrative review of the offer.

All sections of the DSMD should be completed. Offerors should indicate "not applicable" for any questions that are deemed not pertinent to his/her marketing practice, and provide adequate explanation to support this response. Contract specialists should make sure that any data referenced as being "attached" or "enclosed" is in fact included with the offer to support disclosures made in the DSMD.

Clause I-FSS-600 (A-F), Catalogs and/or Pricelists, require that all MAS offers include two copies of the offeror's current published (dated or otherwise identified) commercial descriptive catalogs and/or price lists. Since the price list is a major component of a MAS offer, it is incumbent upon the contract specialist to ascertain its inclusion with the offer, and its authenticity. Note the appearance of the "price list". By this we mean, does it appear to be a document that was specially developed for the MAS offer? Remember the price list must meet the requirements of FAR 15.804-3(c)(1).

When the administrative review indicates that the DSMD is incomplete, or the price list is missing or raises questions, the contract specialist should immediately notify the vendor of the deficiencies. This can be done orally, but should always be confirmed in writing. The letter highlighting the deficiencies should set a specific date that the missing or questionable information should be received by the contract specialist. When the information is not received by the designated date, or when the information remains inadequate, the contract specialist should advise the vendor again of the problems in the offer, establish another due date for a response AND include in the letter that failure to provide the data necessary to complete evaluation of the offer by the due date will result in the offer being returned without further consideration.

Since the average MAS offer takes a number of hours to:

i) perform an administrative review; ii) evaluate sales/discount arrangements; and, iii) examine catalog/price list terms and conditions, it is recommended that the contract specialist take notes as he/she goes through the offer. The fact that most contract specialists are assigned several MAS offers also supports the rationale for taking notes during the review/evaluation process. It is also believed that recording ones thoughts, questions and understanding of the voluminous data will make it easier for the contract specialist to prepare the price/discount analysis, prenegotiation and price negotiation memorandums.

In deciding the best way to analyze the MAS data it is suggested that the contract specialist focus on responding to or supporting the following issues as he/she goes through the offer:

1) identification of the most favored customer;

2) comparison of commercial discounts/concessions vs. proposed government discounts/concessions;

3) confirmation that price list is an established commercial catalog/price list;

4) comparison of proposed government discounts/concessions to current government contract terms and conditions;

The contract specialist should assume nothing during the analysis of the DSMD, pricing/discount arrangements, and commercial catalog/price lists. It is better to question the vendor now, rather than finding out later during the negotiation, or worse, after award, that the discount or sales information is not what the contract specialist understood it to be. Many MAS offerors resist providing detail information; however, contract specialists should point out to these vendors the consequences of nondisclosure or incomplete disclosure. The warning is not to be perceived as a threat, but rather should be relayed as a means to preclude the vendor from being subject to the consequences of the defective pricing provisions.

IDENTIFICATION OF THE MOST FAVORED CUSTOMER (MFC)

The determination of the MFC is a twofold step. The first is to determine the apparent MFC. That is the customer who is getting the best pricing arrangement from the offeror. The second step to that decision is deciding whether the government will use that customer as the basis for the GSA offer.

The information disclosed in Section III, Part B, of the DSMD will provide the key information necessary for determining the offeror's most favored commercial customer. In most cases, the amount of space provided in the DSMD will not be sufficient to comply with this section of the DSMD. Offerors who market through dealers and distributors will invariably have written price/discount arrangements. In addition, such written arrangements are also developed for large volume customers like original equipment manufacturers (OEM), national accounts, and some state/local governments. In order to make a complete analysis/comparison of the terms of these purchase arrangements against the government's estimated commitments, the contract specialist should obtain actual copies of these arrangements, providing full assurance to the offeror that the data contained therein will remain in strict confidence. Blank form agreements do not meet this requirement. Where formal purchase arrangements are not in place, or where an offeror will not provide actual copies of commercial pricing agreements, the offeror must provide the full written details of commercial pricing/discounts in an attachment to the DSMD.

In order to facilitate the task of identifying the MFC, the contract specialist should list the various customers, who according to the DSMD are receiving discounts/concessions. The listing should also summarize the basic conditions under which the discounts/concessions are earned. Such conditions might include stipulation that the customer must agree to buy a certain volume of products during a specified period of time, or the customer might be required to perform certain functions on behalf of the offeror in order to earn the discounts/concessions. For example, a manufacturer selling through a dealer network assigns a significant portion of marketing functions to his/her dealers. Such functions, and associated costs, include advertising, demonstrating and selling the products, providing necessary training and warranty service, etc. See chap. 38, par. 96, Supply Operations Handbook (FSS P 2901.2A) for discussions on educational institutions, OEM's, and state and local governments.

The offeror is responsible for clearly defining the conditions/ functions expected of a customer in return for the discounts granted. Further, the offeror must quantify the value of any functions performed by a customer when these functions form the basis of a discount.

If the contract specialist determines that the circumstances required of the MFC cannot be met by the government the contract specialist must then focus on the second most favored customer. It is important to interject here that in some cases the government is the MFC. When this is the case, it doesn't mean that the offer should immediately be written up for award. Rather, the contract specialist, upon ascertaining that the government is in fact the MFC should focus on improving the discount, or seeking concessions in other areas of the offer.

COMPARISON OF COMMERCIAL DISCOUNTS/CONCESSIONS VS. PROPOSED GOVERNMENT DISCOUNTS/CONCESSIONS

Preparation of the price/discount analysis, as well as the prenegotiation memorandum will be easier to develop if the contract specialist annotates the differences between discounts/ concessions offered to the government and those available to commercial customers as he/she analyzes the DSMD. This will include not only pricing/discount allowances, but should also encompass warranty provisions, delivery/transportation terms, volume of annual business, price increase provisions, etc.

CONFIRMATION THAT PRICE LIST IS AN ESTABLISHED COMMERCIAL CATALOG/PRICE LIST

Our previous PIB on the DSMD provided some basic discussion on testing a representative sample of items in the commercial catalog/price list to confirm if the prices meet the requirements of FAR 15.804-3(c). The test of commerciality cannot be successfully accomplished without examining the commercial price list. The contract specialist should note the unit price of the items identified as the popular models in Section VII of the DSMD. Calculate these unit prices out to ascertain that the commercial sales shown in column 3 do in fact represent substantial quantities. FAR 15.804-3(c)(4) provides that nominal quantities do not satisfy the requirement that an item is sold in substantial quantities. The price list can be a wealth of information; it is therefore very important that the contract specialist study the contents of the price lists carefully. Many commercial price lists contain terms and conditions that should be carefully read by the contract specialist in order to determine if the information conforms or contradicts with disclosures made in the DSMD. It is not unusual to find statements such as:

- "call our authorized dealer" (when the offeror did not identify himself/herself as a manufacturer with dealers)
- "inquire for quotation" (the contract specialist should delete from the proposal all items which have no firm commercial list price)
- "quotations available for larger quantities" (appropriate information should have been included elsewhere in the DSMD on such discount arrangements)
- "free delivery when...." (DSMD shows FOB origin on all commercial orders)

In addition to the above, some price lists may contain references to some other company affiliation which could impact the size of business designation. Further, the price list may make references to foreign products or production points when the offer shows only domestic production points. Uncertainties dealing with foreign production points or business size could definitely affect any small business set-aside conditions.

The contract specialist should request copies of descriptive literature where a vendor's catalog/price list does not provide adequate description of the models offered.

COMPARISON OF PROPOSED MAS OFFER TO CURRENT MAS CONTRACT

Contract specialists should examine new MAS proposals in light of discounts/concessions awarded in any current contract for similar items with the same offeror. In addition to comparing discounts, warranties, commercial pricing, delivery terms, etc., the contract specialist should also ascertain any changes in marketing category, size of business, most favored customer, the percent of price increases since award of current contract, etc.

The contract specialist should also be familiar with the rationale and parameters upon which the contract was awarded.

PREAWARD/POSTAWARD AUDITS

Other information that must be analyzed as part of the evaluation process are any preaward or postaward contract audits. These audits frequently uncover discount agreements, pricing techniques, customer allowances, and other price concessions that were not disclosed in the multiple award offer. This information must be seriously considered and dealt with during the evaluation of the offer. The Audit Resolution and Follow-up System order (ADM 2030.2A) provides specific instructions to the contract officer on handling proposal/contract audit findings and recommendations.

The final PIB in this series on the DSMD will concern use of the DSMD and supporting documentation in preparation of the price/discount analysis, prenegotiation memorandum, and the price negotiation memorandum.

General Services Administration
Federal Supply Service
Washington, DC 20406

MAR - 9 1989

MEMORANDUM FOR DISTRIBUTION LIST - ALL FSS PROCURING ACTIVITIES (FCO DISTRIBUTION LIST)

FROM: NICHOLAS M. ECONOMOU, CPPO
DIRECTOR
OPERATIONS MANAGEMENT DIVISION (FCO)

SUBJECT: Procurement Information Bulletin 89-6

A CLOSE-UP LOOK AT THE DSMD (Article 2 in a series of 4)

Before tackling the issue of analyzing the information provided by offerors in response to the Discount Schedule and Marketing Data requirements, this PIB will "walk-through" the sections of the DSMD. A copy of the DSMD is attached for convenient reference. We will focus on the purpose and the type of information required to respond to the various parts of the DSMD.

The authorized DSMD format is contained in the 1982 Policy Statement on Multiple Award Schedules (Policy Statement). Contracting personnel are cautioned not to alter the contents or format of the DSMD. As stated in our 88-1 PIB, the Office of Acquisition Policy (V) is the authorized administrator of the Policy Statement; therefore, any changes to the DSMD must be coordinated through FCO for consideration by V.

Information provided in the DSMD is used to determine if the prices offered are commercial prices pursuant to FAR 15.804-3. Identification of the vendor's most favored customer, as discussed in the Policy Statement, is also ascertained through the DSMD.

The DSMD is divided into two major parts:

1) Part A contains information of a general nature, and applies to all special item numbers (SIN) included in a vendor's offer.

2) Part B contains information relating to discounts, allowances, and sales information for all classes of customers. Since the data required in Part B varies, a separate Part B must be submitted for each special item number included in the offer.

PART A

Part A is comprised of five sections. Section I - Offeror's Marketing Category, requires the vendor to identify what type of supplier he/she is, and how the offeror intends to market or sell products to the government. The DSMD recognizes four general marketing categories. A "catchall" category is included for those vendors who identify themselves as other than manufacturers or dealers, for example, a distributor.

In addition to confirming the Walsh-Healey representation made in the GSA Form 3503 (Representations and Certifications), this information helps the contract specialist to focus on the possible range of functions that potential contractors might perform in a contractual relationship. Since the government's MAS negotiation procedures recognize the various functions performed by certain types of suppliers, it is important that the type of marketing structure be identified. The functions and their values must be considered in comparison with those provided other customers.

Section II - Identification of a Price List as the Basis for this Offer lists three types of price lists:

a. Since there are a myriad of pricelists used by the manufacturer, the DSMD requires the offeror to identify what type of manufacturer's price list is being proposed as the basis for the government offer.

b. The manufacturer's catalog/price lists contain those published, or otherwise available, prices established by the manufacturer. The types of price lists published by the manufacturer could be any or all of the following:

- suggested manufacturer's
- retail
- dealer
- Original Equipment Manufacturer (OEM)
- distributor
- state and local
- national account
- educational
- others

c. The dealer's catalog/price list contains prices established by the dealer which will be paid by his/her customers. Many dealers do not have their own price lists, electing instead to utilize the manufacturer's suggested price list.

d. The retailer's catalog/price list is a type of dealer price list and can only be used when the retailer's sales are adequate to establish a commercial catalog price exemption.

Section III deals with the offeror's standard warranty and how those commercial terms stack up against the warranty offered to the government.

Section IV, Installation and Instruction, is made up of two questions. These questions center on whether installation/ instructions are included in the offer, and if the installation provisions offered to the government are better than those available to commercial customers.

Section V, Other Data contains five questions which will help the contract specialist get a better understanding of the incidental services offered by the vendor. Note carefully a dealer who doesn't stock any items of the type to be offered in the contract. While some dealers do have larger pieces of equipment drop-shipped from the manufacturer's plant, the contract specialist should not assume that this is the arrangement. Further questioning may reveal that the "dealer" falls short of the Walsh-Healey definition, and is really a costly middleman (agent or limited wholesaler, jobber). (See FAR 22.606). Likewise, a manufacturer who has dealers participating in the contract, but who administers and follows up on all orders, should be questioned to assure that the offeror does have a bona fide dealer network that will be active in the government contract. Since we acknowledge discount credit to a participating dealer when establishing the most favored discount, we should be sure that the dealers are earning their discount, otherwise we should be going after the full dealer discount.

The last portion of Part A of the DSMD should be paragraph VI of the clause entitled, End-of-Contract Additional Discounts Applicable to Aggregate Sales. (Although the DSMD in the Policy Statement shows this portion in Part B, FSS issued instructions in March 1983, to relocate this portion to Part A). Offerors are to enter here any proposed aggregate discount to the government. The government would earn such a discount only when the projected sales base figure is met at the end of the contract. Although this section is actually taken verbatim from the above referenced clause, it is included here along with other discount information. Since the discount is based on the total value of the contract, it is shown in Section A, as opposed to Section B, in which data is submitted by SIN.

PART B

As stated earlier, Part B of the DSMD, Discount and Sales Information, requires complete and detailed responses for each special item number.

Section I, Identification of Items Offered, simply requires the vendor to tell how many model/catalog items are included in the offer, by SIN. As simple as this question appears, many times the figure inserted here does not remotely agree with the number of models identified in the price list submitted with the offer.

Section II, Discounts, deals with the range of discounts and concessions proposed to the Government. The method of discounting may vary and could be any of the following:

1. basic discount to be deducted from the unit price of the item,

2. quantity discounts computed on the number of units purchased with the discounts increasing as the number of units increases;

3. dollar volume discounts computed on the amount of money expended on the order.

Sometimes the discounts are the same regardless of the SIN or model number ordered, and other times, the discounts vary by model and/or special item number.

The date of the price list from which the proposed government discounts are to be taken is to be provided in this section. This is very important, since vendors occasionally change or replace price lists after submission of their offers.

The delivery terms applicable to government orders are reiterated here. Although the majority of multiple award solicitations call for FOB destination provisions, FOB origin terms are also permitted in those solicitations when determined appropriate by the contract specialist. It is important that the contract specialist understand the various advantages associated with the more commonly-used delivery arrangements. FAR 47 provides a good discussion on transportation terms used in government supply contracting, and the contracting officer's role with regard to establishing the delivery terms for government requirements. The contract specialist must also be knowledgeable of the standard delivery terms in order to make a true comparison of delivery concessions to the government versus those delivery concessions offered to commercial customers.

Section II of the DSMD also requests the vendor to indicate if any models/products can be combined within a SIN, and/or if SIN's can be combined in order to qualify for quantity discounts. These questions have little importance if the vendor is proposing a single discount, but it is another story if the government discount is based on quantity or dollar volume accumulation. Responses to these questions can be used to develop a noteworthy and profitable government negotiation objective. The overall value of this potential objective can be substantiated by some of the data supplied elsewhere in the DSMD where the offeror identifies the models or catalog numbers which accounted for the largest dollar sales volume.

The last portion of Section II is a "catchall" question where the vendor is queried on any other type of tangible or intangible concessions to be offered to the government. Examples are free installation, free training, free service manual, free replacement parts, etc.

Section III requires the vendor to disclose those discounts/ concessions provided to all customers other than the Federal Government. Although it specifically identifies some types of customers, it should be made clear that any discounts and cost benefits extended to any of an offeror's customers must be revealed. Note that in addition to relating discount arrangements and delivery terms, the section includes another "catchall" column in which the vendor is expected to summarize any other type of service or concession allowed to any of his/her commercial customers. This may include, but is not limited to, free bonus goods, use of free loaners or demonstrators, etc.

The last set of questions in Section III deals with any other type of price concessions or bonuses available to commercial customers which result in a better net price than those discounts/concessions proposed to the government. Specifically listed are: rebates of any kind, multiple quantity unit plans, special discounts applicable to purchase arrangements for models ordered in certain product groupings, purchase agreements in which the discounts increase as the customer reaches certain specified quantity/dollar levels, pricing arrangements which permit a customer to order an assortment of various models in one purchase order in order to qualify for better quantity discounts, etc. An affirmative response to any question in this section requires a complete and detailed explanation from the offeror as to the circumstances under which the concessions are granted.

Section IV of the DSMD asks a series of questions intended to help the contract specialist avoid awarding identical items to different vendors. The vendor is asked if any of the products or models offered are sold under a different trade name. Under some private label arrangements, the same products are manufactured under different brand names. The government also does not want to award products which are included in another federal supply schedule. This includes schedules administered by IRMS and VA. Any affirmative answers in this section requires a full explanation and backup data. Section IV also requests the vendor to explain any significant changes in discounts/concessions offered in new offer in comparison to any current contracts held by the offeror. This information can be used by the contract specialist in the review process to determine where the government stands in comparison to current contract concessions. Of course, this summary by the vendor will not take the place of the contract specialist's more in-depth analysis of the differences in discounts and allowances of the new offer.

Section V, asks for information about Allowances which the vendor makes to commercial customers which are not being made available to the government under the proposal. They are:

1. Trade-ins - result when the vendor permits a customer to turn used equipment over to the seller in exchange for a cost allowance. This allowance is usually applied to the purchase price of whatever it is that is being bought from the seller. The terms of such trade-in arrangements should be clearly explained. (Consideration of appropriate government trade-in allowances must be developed in line with FPMR 101-46).

2. Return/Exchange Goods Policy - generally, vendors will assess a restocking fee when customers return unwanted requisitioned items. If the vendor is willing to accept returned goods without a service/handling charge from his commercial customers, the government will want the same advantage. On the other hand, there is no reason why the contract specialist should not attempt to negotiate any commercial restocking charges out of the government proposal. A restocking charge should not be accepted if it is so great as to be punitive on the government agency.

3. Reduced prices on samples, demonstrator models, reconditioned items or floor models - Although the government generally buys only new products, it is useful to know how great a concession may be offered on items which are used but are in relatively good condition, with acceptable warranty terms.

Section V includes another "catchall" question where the vendor is expected to discuss any other allowances or tangible provisions not mentioned, which are provided to commercial customers.

Section VI, Sales Information, discusses blanket purchase arrangements (BPA). The vendor is to state the total per cent of government business that is attributed to any BPA's, and to list the specific government agencies with which BPA's are established. The advantages of BPA's are often ignored when setting up negotiation goals. Both the government and the contractors benefit from BPA's; therefore, contracting officer should focus on establishing special BPA discounts in order to encourage agencies to avail themselves of the savings associated with this method of ordering. In lieu of special BPA discounts, the contract specialist may elect to negotiate quantity discounts which will permit BPA users to qualify for the maximum quantity discounts regardless of the quantity ordered.

Section VII, the last portion of the DSMD, deals with sales data which is used to help substantiate whether a catalog price exemption is appropriate, and assist in establishing negotiation objectives. The multiple award schedule contracting procedure is centered on the government's requirements being satisfied with standard off-the-shelf commercial items. Therefore, pursuant to FAR 15.804-3(a)(2), the government, rather than relying on cost or pricing data, examines a vendor's price in light of its acceptability in the commercial market.

The first chart in this section requires sales/discount input on a representative number of models from the vendor's commercial price list. This is used to "test" the vendor's certification that the prices offered meet the requirements of an established catalog price as defined in FAR 15.804-3(c) and 15.804-3(f)(2). The second chart requires substantially the same type of information as is required for the first chart except the models included here are those with sales in excess of $100,000 that the vendor can not certify as being commercial.

The information requested in Section VII is essentially the same information required for the SF 1412 (Claim for Exemption from Submission of Certified Cost or Pricing Data) prescribed in FAR 15.804-3(e) and (f) for verification of an established catalog price. One major difference is the SF 1412 is required for each model number on which an exemption is claimed, as opposed to the sample representatives that are permitted in the DSMD. (Note: the commerciality discussion in FAR and ASPM refers to categories A, B, and C, and the DSMD asks for the same type of information in columns 2, 3, and 4).

The first fill-in information in Section VII is supplied by the contract specialist. Since the size of catalogs/price lists vary significantly, the number of models required should be in proportion to the number of items in a vendor's offer. It may be more practical to include a per cent factor in the DSMD rather than a specific number which may not be adequate in some cases. Section VII (B) also requires the contract specialist to identify the most recent period of sales which represent the projected period of the solicitation. For multi-year solicitations, the period should reflect the total months/years tor the period of the solicitation.

Subparagraphs B(1) is to be completed by the offeror. The government sales by SIN snould include all government sales not just government sales under a GSA contract. Likewise, subparagraph B(2) requires information on total commercial sales (non-Federal government) by SIN. This information should be examined in light of the sales data provided in the chart in order to get a feel for the significance of business the models shown in the charts represent in proportion to the total sales per SIN.

The sales data should be limited to those models actually offered. Sales of products in the same general class as the SIN, but not offered under the contract should be excluded.

The DSMD charts are divided into 8 columns:

Column 1 - identification of the catalog model number. This should represent those models that are historically popular selling items within the government segment. It is very important that the contract specialist focus his/her negotiation objectives on those models that are big sellers in the government.

Column 2 - requires the total government sales for the identified model number, and the percent that these sales represent of the total sales (government and commercial) for that particular model number. (Again, these are total federal government sales, includes GSA and non-GSA contract sales).

Column 3 - requires the total of commercial sales (non-federal government sales) made at the catalog price. Included in this column are sales made at catalog minus any published discounts, i.e., quantity/volume discounts.

Column 4 - requires the total of commercial sales made at other than catalog price. This includes special one time or one customer pricing arrangements (dealer, OEM, national accounts) and/or any discounts extended to the public in order to remain competitive). Vendor must show the per cent these sales represent of the total commercial sales (columns 3 and 4).

Column 5 - is a total of all sales for the identified model number (columns 2, 3, and 4).

Column 6 - requires the vendor to provide the best discount given to any commercial customer, and the quantity level ordered in connection with that discount. This information should be compared with commercial discount information requested elsewhere in the DSMD.

Column 7 - asks the vendor to provide the best discount given to any commercial customer for the quantity/dollar range ordered by the government in column 2. This information is used to determine if commercial customers buying at the same volume/ quantity level as the government received lower, same as, or better discounts. (THIS INFORMATION IS HELPFUL IN IDENTIFYING AND ANALYZING MOST FAVORED CUSTOMER DATA).

Column 8 - asks the vendor to state if the best discount arrangement (column 6) is also extended to the government in the GSA offer. Appropriate written details are required if the proposed government discount is less than that available to commercial customers.

The contract specialist can not rely on the offeror's percentage representation of the Government sales nor the indicated percentage of commercial sales at other than catalog price to determine a catalog price exemption. Instead all data provided by the offeror must be confirmed by the contract specialist.

In summarizing the contents of the DSMD and the relevance thereof, it is most important to remember that this information will be the backbone of the price/discount analysis. Without adequate, complete and current data, the price/discount analysis will not have a leg to stand on. Further, without a good DSMD analysis and development of good government negotiation goals will be impossible.

More information on the data required in the DSMD can be found in:

1. 1982 Policy Statement on Multiple Award Schedule

2. Armed Services Pricing Manual (ASPM) Chapters 2, 9.1, 13)

3. FAR 15.804-3

4. Supply Operations Handbook (FSS P 2901.2A, chap. 38, pars. 90 thru 96)

5. Price Analysis Guides for Contracting Officers Desk Reference (Office of Acquisition Policy, GSA)

Our next PIB covering DSMD information will expand on what you do once you have all this information.

Attachment

Solicitation No.________

PART B - DISCOUNT AND SALES INFORMATION

Name of Offeror	GSA Special Item Number

I. IDENTIFICATION OF ITEMS OFFERED. How many Model/type of catalog items do you offer under this GSA Special Item Number ________ (enter number).

II. DISCOUNTS. The following concessions are offered to GSA for delivery FOB destination.

(a) Discount offered on the above GSA Special Item Number is ________% from pricelist dated ________, plus prompt payment discount, as stated on the first page of this solicitation (additional details may be entered below or attached). If discounts vary, show discounts on pricelist.

(b) Quantity Discounts. List below any quantity discounts included in this offer.

(1) Can models/products be combined within Special Item Number(s)? Yes________ No________. If yes, provide details.

(2) Can Special Item Number(s) be combined? Yes________ No________. If yes, provide details.

(c) Other beneficial terms, discounts, or concessions included in this offer such as prompt renewal discounts, purchase option credits, etc. (List below and provide detail explanations.

Solicitation No.____________

III A. List below the discount and/or concessions resulting in the lowest net price (regardless of quantity and terms and conditions) to other than authorized GSA contract users from pricelist for the same or similar products or services offered to the Government under this solicitation, (Show actual percentage and delivery terms)

	Regular Discounts (%)	Quantity Discounts (%)	Aggregate Discounts	Commissions to other than employees (%)	Prompt Payment	FOB Point	Other
(1) to dealers/ retailers							
(2) to distributors/ wholesalers							
(3) to educational institutions							
(4) to state, county city,and local governments							
(5) to original equipment manufacturers (OEM)							
(6) to others (specify); e,g., nat,l accts., sales agreements, etc.							
(7) if a dealer, indicate discount from mfg,s pricelist							

DC-8911700658

Solicitation No._ ________________

DISCOUNT SCHEDULE AND MARKETING DATA

INSTRUCTIONS TO OFFERORS:
Part A. General Information, applies to each GSA Special Item Number (SIN) for which an offer is submitted. (If all information is the same, SINs may be combined.)
Part B. Separate discount and sales information, must be completed for each Special Item Number for which an offer is submitted. (If discount information is the same for all products under each SIN, SINs may be combined. However, separate sales information required under Part B IV must be provided for each SIN.)

Information required by each space must be furnished. If not applicable, indicate by "N/A". Information furnished in Part B relating to discounts, allowances and sales information will be treated as "CONFIDENTIAL" by the Government except for final prices and discounts awarded by the Government. Failure to provide current, accurate and complete information under Parts A and B may subject the offeror to liability for refunds pursuant to the price reductions or Defective Pricing Clauses.

PART A - GENERAL INFORMATION
(applicable to all special item numbers)

I. OFFEROR'S MARKETING CATEGORY (check applicable item)

(a) ________ Manufacturer selling direct - has no dealers.
(b) ________ Manufacturer selling direct to the Government even though he has dealers.
(c) ________ Manufacturer selling to the Government through dealers.
(d) ________ Dealer selling direct to the Government. (Dealer must submit manufacturer's price list).
(e) ________ Other (specify) ____

II. IDENTIFICATION OF A PRICE LIST AS THE BASIS FOR THIS OFFER (check and attach 2 copies of the price list)

(a) ________ Manufacturer's catalog/pricelist __________________ (indicate type)
(b) ________ Dealer's catalog/pricelist
(c) ________ Retailer's catalog/pricelist
(d) ________ Other (specify) ____

Solicitation No.________________

PART A - continued

III. WARRANTY

(a) Submit your standard commercial warranty or specify where it may be found in your catalog or pricelist included with this offer.

(b) The warranty offered to GSA is more favorable ________ less favorable ________ or equal to ________ the commercial warranty? (check one). Describe and provide the value (expressed as a percentage of the catalog price) if more favorable or less favorable ________%.

IV. INSTALLATION AND INSTRUCTION

(a) Are installation and instruction included in this offer? Yes ________. No ________ (check one). If Yes, give details or indicate where the information may be found in your catalog or pricelist.

(b) Are installation and instruction provisions offered herein to the Government more favorable than those to commercial customers? Yes ________. No ________ (check one). If Yes, describe and provide the value (expressed as a percentage) ________%.

V. OTHER DATA: (Answer "Yes" or "No" for each question)

(a) ________ Do you maintain stock on hand of the items offered?

(b) ________ Do you display the Special Item Number(s) offered in a showroom?

(c) ________ Do you provide any design and layout assistance related to this Special Item Number free of charge?

(d) ________ If you are a dealer, will you arrange to have other dealers participate in the schedule contract should you receive a contract?

(e) ________ Will you administer all incoming orders, including requests for expediting and follow-up?

VI. AGGREGATE OR END OF CONTRACT ADDITIONAL DISCOUNTS

An additional discount of ________ percent is offered to the Government which will be applied to the actual aggregate sales in excess of the following base figure under this contract:

(a) For current MAS contractors, aggregate sales (annualized) to the Government for most recent 12 month period under similar contract(s) is $________, based on sales during the period________to________.

(b) For other offerors, projected aggregate sales under this contract is $________.

GSA000327

Solicitation No.________________

PART B – continued

IV (a) Are any of the models/products offered herein sold by the offeror under a different trade name(s)? Yes________, No________. If "Yes", explain and provide applicable pricelists.

(b) To your knowledge, are there identical products offered herein contained in any other GSA Federal Supply Schedule contract? Yes________ No________. If "Yes", identify the product, schedule and contract.

(c) Summarize any significant changes in concessions offered herein as compared with those set forth in any current GSA contract.

V. Allowances: (This section only applies to FSS solicitations). Do you offer any of the following allowances to any customer which are not available to a GSA contract user under this contract? (Enter "yes" or "no" for each. If yes, explain.)

(a) ________ Trade-in allowances?

(b) ________ Return/Exchange goods policy?

(c) ________ Reduced prices on samples, demonstrator models, reconditioned items or floor models?

(d) ________ Do you give any allowances not mentioned above?

VII. continued . . . .

C. Sales information in the table below shall be provided for each individual model/type or catalog number in the above special item number that is not certified commercial, when experienced annual government sales are $100,000 or more.

1	2	3	4	5	6	7	8
Model/Type or catalog number	Total annual sales to Fed. Govt. $ | % of Col.5	Total annual sales sales to non-govt. customers at catalog price. (less published disc)	Total annual sales to non-govt. customers at other than catalog price. $ | % of Col.3 if more than 25%	Total annual sales: Cols. 2, 3, & 4.	Provide information below for largest disc. granted any non-govt. customer Qty. | Disc.	List largest disc. at which the item was sold for comparable sales/qties. shown in Col. 2. to any non-govt. customer during the year. Qty. | Disc.	Is the discount in Block 6 greater than your current offer under this solicitation. Yes ____ NO ____. If yes, provide complete documentation and rationale of the difference. Merely submitting copies of documents such as terms and conditions of commercial contracts, commercial warranties etc., will not be adquate to justify the difference.

NOTE:
1. Federal Government sales include all sales to U.S. Government and its instrumentalities and for U.S. Government sales directly to U.S. Government prime contractors and to their subcontractors or suppliers at any tier, for use an end item or as part of an end item, by the U.S. Government.
2. Nongovernment customer is defined as other than Government or affiliates (include sales to distributors, dealers, OEM, national accounts, educational institutions, states, etc.).
3. Discounts are reductions to catalog or market prices (published or unpublished) applicable to any customer, including OEMs, dealers, distributors, national accounts, states, etc., and any other form of price reduction such as concessions, rebates, quantity discounts, allowances, services, warranties, installation, free parts, etc., which are granted to any customer.

GSA000329

Special Item No. ____________ Offeror's Name ____________

VII. A. This section requires (1) that sales information be provided to enable the contracting officer to determine that the items meet the test of commerciality in FAR 15.804-3 and ASPM , , and, (2) that pricing data is furnished in sufficient detail to enable the contracting officer to perform a price analysis in accordance with FAR 15.304-3(h).

1. Total annual sales to the Government under this Special Item Number $ ____________.
2. Total annual sales (to all entities) under this Special Item Number $ ____________.

B. The offeror certifies that, except for the individual models/types or catalog numbers cited in para. C below, all other models/types or catalog numbers offered in response to this solicitation meet the test of commerciality in FAR 15.804-3(c) and ASPM . Of the individual models/types or catalog numbers so certified, sales information shall be provided in the table below for each of the ______ models/types or catalog numbers with the largest dollar sales volume. The sales information is for the prior 12 months, from __________ to __________ for this special item number.

1	2	3	4	5	6	7	8
Model/Type or catalog number	Total annual sales to Fed. Govt.	Total annual sales to non-govt. customers at catalog price. (less published disc)	Total annual sales to non-govt. customers at other than catalog price.	Total annual sales: Cols. 2, 3, & 4.	Provide information below for largest disc. granted any non-govt. customer	List largest disc. at which the item was sold for comparable sales/qties. shown in Col. 2. to any non-govt. customer during the year.	Is the discount in Block 6 greater than your current offer under this solicitation. Yes ___ NO ___. If yes, provide complete documentation and rationale of the difference. Merely submitting copies of documents such as terms and conditions of commercial contracts, commercial warranties, etc., will not be adequate to justify the difference.
	$ | % of Col.5		$ | % of Col.3 if more than 25%		Qty. | Disc.	Qty. | Discount	

Solicitation No.____________________

III b. Do you have in effect, for any customer of any class within the MOL or outside of the MOL, other discounts and/or concessions including but not limited to the following, regardless of price list, which result in lower net prices that those offered the Government in this offer?

Yes _________ No _________ rebates of any kind, including year-end or end of contract discounts?

Yes _________ No _________ multiple quantity unit pricing plan?

Yes _________ No _________ cumulative discounts of any type which cover items being offered?

Yes _________ No _________ products (models)/services that maybe combined for maximum discounts?

Yes _________ No _________ others (specify).

If the answer to any of the above is "Yes", provide a detailed explanation including the value expressed as a percentage of the list price.

Solicitation No.__________________

PART B - continued

VI. SALES INFORMATION (This section only applies to FSS solicitations).

Estimate the percentage of your sales made to the U. S. Government under Federal Supply Schedule Blanket Purchase Arrangements (check one of the following):

None ________. 25% or less ________. 25% to 49% ________.

50% to 74% ________. 75% or more ________.

List agencies below:

1. __________________
2. __________________
3. __________________
4. __________________

etc.

General Services Administration
Federal Supply Service
Washington, DC 20406

BC

JAN 28 1991

MEMORANDUM FOR DISTRIBUTION LIST - ALL FSS PROCURING ACTIVITIES (FCO DISTRIBUTION LIST)

FROM: NICHOLAS M. ECONOMOU, CPPO
DIRECTOR
FSS ACQUISITION MANAGEMENT CENTER (FCO)

SUBJECT: PROCUREMENT INFORMATION BULLETIN 91-4

Contract Clearance Reviews

Periodically we provide you with the common problem areas and frequently occurring deficiencies found as a result of our contract reviews. This is intended to alert contracting personnel to the latest procurement issues throughout our contracting arena. Feedback of this nature is intended to strengthen communications and achieve improvements in contracting problem avoidance.

We hope by sharing these finding with you, this will help you to avoid problems of this nature in the future.

DOCUMENTATION

Documenting the rationale of your position or decision assumes the importance of the negotiation or decision itself. After all the time and effort spent coaxing an unyielding contractor, putting together a complex write-up, it can be extremely frustrating to have to do repeated rewrites. Avoid this situation, by preparing a convincing and well-documented case file the first time. It will be worth the effort and persuade the reviewers that your decision is sound.

PRICING ISSUES

Analyses were not always made to test for commerciality.

Price Analysis provides the avenue to arrive at a fair and reasonable price. It is the process of evaluating a offeror's proposed price by comparing it or its elements with reliable indicators of reasonableness. An offeror may qualify for an exemption to the submission of cost or pricing data. This requires the test of commerciality. To determine whether a contractor qualifies for the established catalog or market price exemption on an item, a two-step formula is applied. To help apply these formulas consult FAR 15.804-3(f), Armed Services Pricing Manual (ASPM), or your Price Analysis Guide for

Contracting Officers - Desk Reference. Also, the Supply Operations Handbook, 2901.2A, Chapter 38, Paragraph 93, covers price analysis. Paragraph 94 will guide you in determining the commerciality of items.

PRICE NEGOTIATION MEMORANDUM

The Price Negotiation Memorandum (PNM) should summarize the government's position and tell the complete story of what happened in negotiations, referring back to the Pre-Negotiation Memorandum for the established objectives. In addition, the PNM should address the audit review, if one was done, and whether recommendations were adopted. If established objectives or audit recommendations were not adopted state why and give a rationale. Reconstruction of the events of the procurement should be reflective in the PNM. Tie together all the events that led to the final agreement. The Supply Operations Handbook, 2901.2A, Chapter 38, Paragraph 98, gives detail information of what should be in a PNM.

ADMINISTRATIVE

Take time to proofread the award document, SF-26. Many times errors are found on this very important document. Make sure you include all pertinent information so there is no question with either party as to what is accepted. INCORPORATE AND MAKE A MATERIAL PART OF THE CONTRACT THE SUBCONTRACTING PLAN, if required. For awards made under the schedules program, Chapter 38, Paragraph 118, lists information that is required on the SF-26.

MISCELLANEOUS FINDINGS

- Cases forwarded for review should have contract numbers.

- Obtain legal review for cases that required FC and VC clearance. GSAR 501.670-4 states other cases when review approval is required.

- The price reduction clause should be based on one customer or one category of customer.

- If a SF 119, Contingent Fee Arrangement, is disclosed, an evaluation and determination by the contracting officer is required.

- Make sure the contractor submits a Government pricelist.

- EEO clearances are required for all production points over $1,000,000.

- Ensure that best and final letters are received from offerors, confirming what was discussed and agreed to during negotiations and that offerors recertify that all data is accurate, complete and current.

- Ensure that a subcontracting plan approval letter is forwarded to the contractor as prescribed by GSAR 519.705-5 and that a copy of the letter is maintained in the contract file.

WAIVER REQUESTS

- Waiver requests must be accompanied by the case file.

- Get legal concurrence.

- The memorandum for the waiver must include the information as outlined in the Supply Operations Handbook, Chapter 1, Part 6. Section 1. Contract Clearance.

92. Discount schedule and marketing data.

a. All MAS solicitations will require offerors to submit information on sales, discounts, and marketing practices. This required information will be used to determine whether the products or services offered meet the test of commerciality and will be used by the Government to evaluate the offeror's proposal and to determine price reasonableness . Accordingly, each MAS solicitation will include Discount Schedule and Marketing Data (DSMD) sheets, to be completed for each SIN and submitted as a part of the offeror's proposal. Failure to submit the required sales, discount, and marketing data will result in no award.

b. Sales information will be required on a representative sample of the offeror's bestselling items, based on Government sales, that are being offered to the Government in response to the MAS solicitation. The contracting officer will determine the number of items in the sample for which sales information must be furnished. Sales data submitted with the initial proposal must be updated when errors are discovered in the data, when changes in the sales data occur affecting the commerciality of the products being offered to the Government, or when an update is requested by the contracting officer. (See subpar. 94b(5).)

c. Full and complete disclosure is required. When it has been determined that the data furnished is not accurate, complete, and current, the contracting officer must immediately call it to the attention of the offeror in writing. At a minimum, the offeror must be allowed 15 working days after receipt of notification to submit corrected or completed data to the contracting officer. The offeror must be requested to explain the failure to provide complete disclosure in accordance with the requirements of the solicitation. Failure to furnish accurate, complete, and current data within the specified time will result in rejection of the offer and the offeror must be notified that the offer will no longer be considered for award.

d. In all cases where the contracting officer determines that the offeror's failure to submit accurate, complete, and current data is other than simple error or mistake, the contracting officer must report these findings to the appropriate official in the Office of Inspector General (OIG) in accordance with GSA Order, GSA Standards of Conduct, (ADM 7900.9), Section 105-735.216, Reporting Suspected Irregularities. When a preaward audit detects an apparent false certification resulting from willful nondisclosure or misrepresentation, contracting officers should not conduct negotiations until the Office of Acquisition Policy (V) has assessed the evidence generated by the OIG and reached a decision regarding suspension or debarment action. Additionally, when the contracting officer determines that the failure to submit accurate, complete, and current data is intentional, or the result is a failure to negotiate in good faith, then the firm may be determined to be nonresponsible and the offer rejected.

e. The offeror will certify to the accuracy, completeness, and currency of the data with the submittal of the offer and at the conclusion of negotiations. If the data is not found to be current, correct, and complete subsequent to award, the defective pricing clause will be activated and consideration will be given to cancelling the MAS contract if still in effect.

8.403 Types of Federal Supply Schedules.

8.403-1 Single-award schedules.

Single-award schedules cover contracts made with one supplier at a stated price for delivery to a geographic area as defined in the schedule. Most schedules contain all information necessary for placing orders. Some schedules specify that contractor catalogs must be used for additional ordering information to aid in the selection of fabrics, colors, and similar variables.

8.403-2 Multiple-award schedules.

Multiple-award schedules cover contracts made with more than one supplier for comparable supplies and services. Contracts are awarded to suppliers of the same generic types of items at varying prices for delivery within the same geographic area. Contractor catalogs and pricelists must be used with the schedules to prepare delivery orders. The catalogs and pricelists contain information such as item descriptions, prices and discounts, order limitations, and delivery.

8.403-3 New Item Introductory Schedule.

The New Item Introductory Schedule (NIIS) provides the means to introduce new or improved products into the Federal Supply System. The schedule lists brand names of products available from various suppliers. With the exception of GSA, the only mandatory user of this schedule, Federal agencies and agencies authorized by law or agree ment may use the NIIS on an optional basis. Ordering offices must use contractor catalogs and pricelists with the schedule to prepare delivery orders.

8.403-4 International Federal Supply Schedule.

(a) The International Federal Supply Schedule (IFSS) provides sources of supply (supplies and services) at reasonable prices to U.S. Government activities located overseas. The use of the schedule is mandatory only on GSA.

(b) The schedule is divided into two sections. Section A includes those items which were awarded under sealed bid procedures, while Section B covers items that were awarded under negotiated procedures.

(c) Ordering offices need to review the information in the schedule and any applicable contractor's catalogs/price lists to ensure the proper placement of orders. Orders are placed directly with the contractors.

(d) Ordering offices shall forward copies of any orders (at the time the orders are issued) to the contracting office designated in the IFSS.

8.404 Using schedules.

(a) The planning, solicitation, and award phases of Federal Supply Schedules comply with FAR requirements. Consequently, contracting officers need not seek further competition, synopsize the solicitation or award, determine fair and reasonable pricing, or consider small business-small purchase set-aside procedures when placing an order under a Federal Supply Schedule.

(b) Before soliciting commercial sources, executive agencies shall determine if the required supplies or services, or similar supplies or services fulfilling the same purpose, are available from schedules (see FPMR 101-26.4). If so, the ordering office shall proceed in accordance with the procedure of 8.404-1 or 8.404-2, as appropriate.

(c) In the case of mandatory schedules, ordering offices shall not (1) solicit bids, proposals, quotations, or otherwise test the market solely for the purpose of seeking alternative sources to Federal Supply Schedules; or (2) request formal or informal quotations from Federal Supply Schedule contractors for the purpose of price comparisons.

8.404-1 Mandatory use.

Schedules identify executive agencies required to use them as mandatory sources of supply. The single-award schedule shall be used as a primary source and the multiple-award schedule as a secondary source. The following are exceptions to the mandatory-use requirement:

(a) *Urgent requirements.* When an ordering office requires supplies or services with a shorter delivery time than specified in the schedules, and time permits, the ordering office shall request the contractor by letter, telegram, mailgram, or telephone conversation (confirmed in writing) to state the best delivery time that can be met under the circumstances and subject to all other terms and conditions of the schedule contract. The contractor shall be instructed to reply to the inquiry within not more than 3 workdays after receipt, by the same or a faster communications medium than the one by which the inquiry was received. If the contractor offers accelerated delivery acceptable to the ordering office, orders shall obligate the contractor to make the shorter delivery under all other terms and conditions of the contract. When the contractor fails to reply, or the best delivery time does not meet the ordering office's requirements, use of the schedule is not mandatory.

(b) *Small requirements.* Dollar or quantity minimums are established for most schedules, below which ordering offices are not obligated to order and contractors are not obligated to accept orders. Ordering offices may submit orders below established minimums, subject to the contractor's acceptance. Once an order is accepted, the contractor is obligated to perform according to all the terms and conditions of the contract. Some schedules require the contractor to accept orders below the dollar or quantity minimum, but authorize the contractor to include a service charge up to a certain dollar amount. In these cases, the

PART 2. ESTABLISHING A FEDERAL SUPPLY SCHEDULE

6. Selection criteria for Federal Supply Schedules. The following criteria must govern in determining whether an item can be most advantageously purchased through the medium of Federal Supply Schedules. (See the HB, Supply Operations, Commodity Management (FSS P 2901.11A), for more information on the criteria for making method of supply decisions.)

a. The item must be such that:

(1) Handling on a storage and issue basis is not economically sound; or

(2) It is either not feasible to forecast definite requirements for delivery to specific use points, or no advantage accrues from doing so.

b. Industry distribution facilities are adequate to serve the use points involved.

c. This method of purchase must be used also when:

(1) Items are proprietary or are so complex in design, function, or operation as to make it impractical to develop a specification or commercial item description to permit direct competition.

(2) Technical assistance or service to be furnished by suppliers is a fundamental consideration in use of equipment.

7. Methods of schedule contracting. The same model(s) must not be on both a single award schedule and multiple award schedule, nor will the same model(s) be on different Special Item Numbers (SIN's) within a multiple award schedule, nor will the same model be on a contract with more than one supplier.

a. Single award (SAS). Contracts made with one supplier per line item, at a stated price for delivery to a geographical area as defined in the schedule. Use of this type of schedule is appropriate when the characteristics of the item can be defined in a commercial item description (CID), specification, or item description. Contracting is by sealed bids or competitive negotiation.

b. Multiple award (MAS). Contracts for similar/comparable functional end-use items are established with more than one supplier. Contracts are awarded to vendors supplying generic types of items at varying prices. Use of this type of schedule is appropriate when there are no prescribed standards or specifications and it is to the Government's advantage to make effective use of industry production and distribution facilities and to provide selectivity among similar commercial items.

c. Determining proper schedule contracting method. FAR 6.401 states that contracting officers must exercise good judgment in selecting the method of contracting that best meets the needs of the Government, and document the reasons if sealed bidding is not appropriate. Sealed bids must be used if the conditions set forth in FAR 6.401 are present.

(1) The following criteria must be used to determine which items may be procured on a single award:

(a) Technology is relatively stable;

(b) A common specification or purchase description can be used, which would satisfy a significant portion of the Government requirement;

(c) Adequate supplier competition is available against the common standard;

(d) A reasonable expectation that small business participation in the procurement can be achieved;

(e) Prospective sales volume is sufficient to attract full and open competition; and

(f) A clear cost advantage over other contracting methods can be reasonably anticipated.

(2) The following criteria must be used in determining whether an item can be most advantageously supplied through MAS contracts:

(a) Impractical to describe with commercial item description, purchase description, or federal specification for a single award;

(b) Specific technical requirements are unknown;

(c) Agency needs can be satisfied among several functionally similar products with significant variances in prices and features;

(d) Technology is changing rapidly;

(e) Items are sold in substantial quantities to the general public; and

(f) Items are in substantial and general use by the majority of executive agencies.

the contracting officer. The offeror must be requested to explain the failure to provide complete disclosure in accordance with the requirements of the solicitation. Failure to furnish accurate, complete, and current data within the specified time will result in rejection of the offer and the offeror must be notified that the offer will no longer be considered for award.

d. In all cases where the contracting officer determines that the offeror's failure to submit accurate, complete, and current data is other than simple error or mistake, the contracting officer must report these findings to the appropriate official in the Office of Inspector General (OIG) in accordance with GSA Order, GSA Standards of Conduct, (ADM 7900.9), Section 105-735.216, Reporting Suspected Irregularities. When a preaward audit detects an apparent false certification resulting from willful nondisclosure or misrepresentation, contracting officers should not conduct negotiations until the Office of Acquisition Policy (V) has assessed the evidence generated by the OIG and reached a decision regarding suspension or debarment action. Additionally, when the contracting officer determines that the failure to submit accurate, complete, and current data is intentional, or the result is a failure to negotiate in good faith, then the firm may be determined to be nonresponsible and the offer rejected.

e. The offeror will certify to the accuracy, completeness, and currency of the data with the submittal of the offer and at the conclusion of negotiations. If the data is not found to be current, correct, and complete subsequent to award, the defective pricing clause will be activated and consideration will be given to cancelling the MAS contract if still in effect.

93. Price analysis. FAR 15.805 states that some form of price or cost analysis is required in connection with every negotiated procurement action. FAR 15.804-3(h) states that even though an item qualifies for an exemption from the requirements for submission of certified cost or pricing data, price analysis must be performed to determine the need for further negotiation and the reasonableness of the price.

a. Preparation for negotiations begins with a properly prepared price analysis report. A thorough price analysis will provide both the basis for establishing specific negotiation objectives and the reasons why these objectives were established. (See par. 95.) The price/discount range should be developed to provide for the flexibility necessary in any ensuing negotiations. Questions on the proposal that arise during the price analysis effort must be addressed to the offeror. In most cases, the following information should enable the contracting officer to complete the price analysis and begin developing the negotiation objectives:

OFFER CONTRACT CONTROL LOG

# of Line	bs sz	OFFEROR	ASSIGNED TO	ASSIGNED DATE	Estimated Value	Audit Report Req'd Recvd	EEO Clearance Req'd Recvd	Subcontrg. Plan Req'd Recvd	Pre-Neg Forwarded	Date Recommended Forwarded	Date Awarded	Contract Number	# of Lines Awarded	Pricelist & Certification Received	Date Log Reviewed

Figure 38-90. Offer/Contract control log